

215 ILCS 5/460

Sec. 460. Competitive Market, Approval of Rates. (a) Beginning January 1, 1983, a competitive market is presumed to exist unless the Director, after a hearing, determines that a reasonable degree of competition does not exist in the market and the Director issues a ruling to that effect. For purposes of this Article only, market shall mean the statewide workers' compensation and employers' liability lines of business. In determining whether a reasonable degree of competition exists, the Director shall consider relevant tests of workable competition pertaining to market structure, market performance and market conduct. Such tests may include, but need not be limited to, the following: size and number of firms actively engaged in the market, market shares and changes in market shares of firms, ease of entry and exit from a given market, underwriting restriction, and whether profitability for companies generally in the market is unreasonably high. The determination of competition involves the interaction of the various tests and the weight given to specific tests depends upon the particular situation and pattern of test results.

In determining whether or not a competitive market exists, the Director shall monitor the degree of competition in this State. In doing so, he shall utilize existing relevant information, analytical systems and other sources; cause or participate in the development of new relevant information, analytical systems and other sources; or rely on some combination thereof. Such activities may be conducted internally within the Department of Insurance, in cooperation with other state insurance departments, through outside contractors, or in any other appropriate manner.

(b) If the Director finds that a reasonable degree of competition does not exist in a market, he may require that the insurers in that market file supporting information in support of existing rates. If the Director believes that such rates may violate any of the requirements of this Article, he shall call a hearing prior to any disapproval. If the Director determines that a competitive market does not exist in the workers' compensation market as provided in a ruling pursuant to this Section, then every company must prefile every manual of classifications, rules, rates, rating plans, rating schedules, and every modification of the foregoing covered by such rule. Such filing shall be made at least 30 days prior to its taking effect, and such prefiling requirement shall remain in effect as long as there is a ruling in effect pursuant to this Section that a reasonable degree of competition does not exist.

(c) The Director shall disapprove a rate if he finds that the rate is excessive, inadequate or unfairly discriminatory as defined in Section 456. An insurer whose rates have been disapproved shall be given a hearing upon a written request made within 30 days after the disapproval order.

If the Director disapproves a rate, he shall issue an order specifying in what respects it fails to meet the requirements of this Article and stating when within a reasonable period thereafter such rate shall be discontinued for any policy issued or renewed after a date specified in the order. The order shall be issued within 30 days after the close of the hearing or within such reasonable time extension as the Director may fix. Such order may include a provision for premium adjustment for the period after the effective date of the order for policies in effect on such date.

(d) Whenever an insurer has no legally effective rates as a result of the Director's disapproval of rates or other act, the Director shall on request of the insurer specify interim rates for the insurer that are high enough to protect the interest of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by him. When new rates become legally effective, the Director shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimus shall not be required.

(Source: P.A. 82-939.)